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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/616,196	07/07/2003	Thomas G. Bell III	1091-007/JRD	9662
21034	7590	11/02/2005	EXAMINER	
IPSOLON LLP			WEAVER, SUE A	
805 SW BROADWAY, #2740			ART UNIT	
PORTLAND, OR 97205			PAPER NUMBER	

3727

DATE MAILED: 11/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/616,196

Applicant(s)

BELL, THOMAS G.

Examiner

Sue A. Weaver

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-9 and 11-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 22 is/are allowed.
- 6) ☒ Claim(s) 1,3-9,11-21 and 23-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the zipper pull arrangement on the pocket of footwear as is now claimed in claim 36. must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 36 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. There doesn't appear to be any description of the pocket being on footwear as is now claimed in claim 36.

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 24, 25, 29 and 36-40 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 24 and 29 respectively, "a tab portion" appears to be a double inclusion of that now set forth in claims 23 and 28.

Claim 36 recites the limitation "said article of footwear" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 37 recites the limitation "said second end" in line 7. There is insufficient antecedent basis for this limitation in the claim.

Claim 38 recites the limitation "said second end" in line 8. There is insufficient antecedent basis for this limitation in the claim.

In claim 39, the claim for the strip being "planar" is considered to be a double inclusion of the planar strip set forth in claim 37.

5. Claims 1, 6, 8, 12-14, 23, 27, 37 and 40 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Krupp, of record.

Krupp teaches a bag with a slide fastener 15 as a closure having a slide 13. Member 29 defines an elongate pull with one end attached to the bag at 18 and the other end being attached near the other end 26a to the slide. The member acts as a handle to operate the slide to open and close the slide fastener as claimed. Note that the pull is vertical depending on one's orientations, as shown. Being a handbag, member 10 is considered to define an article of luggage as claimed. Note that member 25 defines a tab portion which is shorter than the handle portion. The member is clearly planar along its length as shown in Figure 3.

6. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Krupp in view of Droeger, of record.

To have added shoulder straps to the bag so that it forms a backpack would have been obvious in view of such teaching by Droeger at 14.

7. Claims 3-5, 24 and 25 remain rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 1 and 23 above, and further in view of Trader, of record.

To have provided the pull with means to detachably secure it to the article would have been obvious in view of such teaching by Trader.

8. Claims 1, 3, 4, 6-9, 12, 16-19, 28-32, 37, 38 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gephardt '847.

Note Figure 4 of Gephardt showing a zipper for a garment pocket 4. Gephardt further teaches a pull arrangement with a portion 8b secured to the article at one end and another end operatively secured to the slide at 12. A shorter tab portion is attached to the article by a snap fastener at the other end at 10. Note that the strip is planar as shown in Figure 3 and at least as wide as the zipper engaging portions 4 as shown in Figure 4. The provision of a pocket would just as easily be a jacket pocket as an inner shirt or pants pocket. Furthermore the pocket would be a main opening on a pair of pants with a stretch elastic waist.

9. Claims 13, 20, 21 and 33-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 1 above, and further in view of Gamm '579.

To have provided the zipper cover pull on a shoe pocket to cover and protect such zipper there would have been obvious in view of Gamm. Note the shoe is an outer garment as well as being footwear and has a vertically oriented zipper at 6.

10. Claims 14 and 23-37 rejected under 35 U.S.C. 103(a) as being unpatentable over the reference as applied to claim 1 above, and further in view of Cramer et al '570.

To have formed the zipper pocket on an article of luggage to secure items in the pocket would have been obvious in view of such teaching by Cramer et al at 14.

11. Claims 11 and 39 remain rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 1 and 37 above, and further in view of Knoess, of record. To have merely added ornamentation to the pull in the manner taught by Knoess would have been most obvious to one having ordinary skill in the art.

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12. Claim 22 is allowed while claims 2, 10 and 41-45 have been canceled.
13. Applicant's arguments with respect to claims 1, 6, 11, 16, 17, 20, 22, 23, 28 33-35 and 37 have been considered but are moot in view of the new ground(s) of rejection.

Contrary to applicant's arguments member 25 of Krupp does indeed form a shorter tab portion.

14. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

### **Certificate of Mailing**

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Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sue A. Weaver whose telephone number is (571) 272-4548. The examiner can normally be reached on Tuesday-Friday (6-4:30).

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SW

  
Sue A. Weaver  
Patent Examiner